

NOTICE

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2013 IL App (4th) 130704-U

NO. 4-13-0704

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

November 20, 2013

Carla Bender
4th District Appellate
Court, IL

In re: E.B., a Minor,)	Appeal from
THE PEOPLE OF THE STATE OF ILLINOIS,)	Circuit Court of
Petitioner-Appellee,)	Champaign County
v.)	No. 13JA30
SHIREL BROWN,)	
Respondent-Appellant.)	Honorable
)	Richard P. Klaus,
)	Judge Presiding.

JUSTICE APPLETON delivered the judgment of the court.
Justices Harris and Holder White concurred in the judgment.

ORDER

¶ 1 *Held:* The trial court did not abuse its discretion by ordering that visitation be supervised.

¶ 2 Respondent, Shirel Brown, is the mother of E.B., born on May 31, 2012. After finding E.B. to be neglected, the trial court held a dispositional hearing, in which the court made E.B. a ward of the court, removed custody and guardianship from the parents, and appointed the Illinois Department of Children and Family Services (DCFS) as the custodian and guardian.

¶ 3 Respondent appeals. Her only contention is that the trial court abused its discretion in the dispositional order by requiring that visitation be supervised by DCFS. We find no abuse of discretion in that respect. Therefore, we affirm the trial court's judgment.

¶ 4 I. BACKGROUND

¶ 5

A. The Adjudication of Neglect

¶ 6

In June 2013 the State filed a petition for adjudication of neglect and for shelter care, listing respondent as E.B.'s mother and Christopher Monroe as her father. Count I alleged that E.B. was a "neglected minor" within the meaning of section 2-3(1)(b) of the Juvenile Court Act of 1987 (Act) (705 ILCS 405/2-3(1)(b) (West 2012)) in that her environment was injurious to her welfare. Allegedly, her environment was injurious because respondent had a history of mental illness and continued to suffer from mental illness. Count II alleged that E.B.'s environment was injurious in that when she resided with one or both of her parents, she was exposed to the risk of physical harm. See *id.*

¶ 7

In July 2013, in a pretrial hearing, respondent stipulated to count I, and Monroe stipulated to count II. The State dismissed the remaining counts of the petition. The trial court accepted the stipulations. (E.B. was in shelter care.)

¶ 8

B. The Dispositional Hearing

¶ 9

1. *The Dispositional Report*

¶ 10

In August 2013, the trial court held a dispositional hearing, in which it considered a dispositional report written by Lisa Knight, a foster care supervisor at The Center for Youth and Family Solutions.

¶ 11

a. The Reasons for DCFS's Involvement

¶ 12

According to the dispositional report, DCFS became involved with respondent, Monroe, and E.B. because of a domestic dispute. Monroe was visiting from Minnesota and wanted to see his daughter. Respondent would not allow him to leave with the child. They struggled over the child, and respondent called the police. The report does not say when this

incident happened.

¶ 13 The report further says: "On [May 3, 2013], a *** report [from the Statewide Central Register of Abuse and Maltreatment (SCR)] was received stating Ms. Brown had made statements regarding not wanting her child [(E.B.)]. Her plan was to give the child to DCFS. Due to Ms. Brown's past and her anger issues related to previous children, a hotline report was generated due to her mental health issues."

14 b. Previous Involvement With DCFS

¶ 15 The dispositional report says:

"Ms. Brown's first daughter, [Z.B.], was taken into Protective Custody on 02-08-08 at 10 months old, following a hotline call alleging that her mother, Shirel Brown, had grabbed her by the hair and angrily cut a chunk of her hair off. Ms. Brown also reportedly picked up [Z.B.] and shook her, then threw her onto the couch and yelled, 'I hate you!' She was said to be angry because [Z.B.] had been ill. According to reports, such behavior on the part of Ms. Brown was an ongoing issue, and several other similar examples were cited. Ms. Brown was reported to engage in such behavior primarily when [Z.B.] cries and she (Ms. Brown) becomes frustrated.

In addition, Ms. Brown was quoted as telling case personnel she is not required to take her psychotropic medication, but did comment she believes she needs help with anger control

issues. ***

It is important to point out that, according to staff at Dr. Antonsen's office, Ms. Brown requested an appointment in October of 2007 because she believed she was bipolar, was experiencing significant depression, and was having nonspecific suicidal thoughts. She also told Dr. Antonsen she had concerns about her interaction with [Z.B.], as she believed she was becoming increasingly intolerant and impatient with her. ***

On 3/30/10, a SCR report was received stating Ms. Brown hit [another child, K.D.] with a belt on the legs. Additionally, [K.D.] stated Ms. Brown threw [Z.B.] against the wall and hit her on the back with a belt while cussing her."

¶ 16

c. The Relationship Between Respondent and E.B.

¶ 17

Under the heading "Family and Child Rearing," the dispositional report says:

"Ms. Brown reported that much of her older daughter's [(Z.B.'s)] care was provided by her then fiancé, Dale DeVries. She does appear to have basic parenting and caretaking knowledge and instincts. Ms. Brown is affectionate to [E.B.] and [E.B.] responds to her mother. For the first 11 months of [E.B.'s] life, Ms. Brown managed to provide care for [E.B.], facing such obstacles as homelessness, without coming to the attention of the Department.

Ms. Brown has limited ability to comprehend how her

behaviors affect [E.B.] Her thought process is very self-centered and she frequently uses 'I' statements and talks about what she wants vers[u]s what [E.B.] needs. Ms. Brown's commitment to service, participation, and reunification has fluctuated. When she becomes angry she will verbalize dramatic feelings of despair and resignation."

¶ 18 d. Visitation

¶ 19 Respondent is allowed to visit E.B. once a week for one hour. All visits occur at the agency office and are supervised by the staff of The Center for Youth and Family Solutions. "These visits will increase appropriately as the case progresses."

¶ 20 E.B. resides with an aunt.

¶ 21 e. Recommendations

¶ 22 The Center for Youth and Family Solutions recommended that the trial court award custody and guardianship of E.B. to DCFS and that any contact between E.B. and the parents be supervised.

¶ 23 2. Respondent's Testimony

¶ 24 Respondent testified she was "seeing both Dr. Cesnjaj and Dr. Derum," who were "working together with [her] mental care health plan." Respondent's attorney asked her:

"Q. Are you attending those appointments faithfully and taking your medication?

A. Yes.

Q. At this time you've lost your medical card; is that

correct?

A. Yes.

Q. Are you working on a plan to still receive your medications?

A. There is not really a plan to still receive it.

Q. Okay.

A. Because when your medical card is cut off, I can't afford it, and there is no programs that help you pay for them.

Q. But you are looking into that, correct?

A. Yes, but it was also a problem with the last caseload. It's a lot of reason why I lost custody of my first child.

Q. And you started a parenting class in May of 2013 at Crisis Nursery; is that correct?

A. Yes, it's over.

Q. It's over, and you've completed?

A. Yes.

Q. Did you successfully complete it?

A. Yes.

Q. You attempted to put yourself in counseling at Community Elements; is that correct?

A. Yes.

Q. But that did not work because your medical card was cut

off, correct?

A. Yes.

Q. So are you willing to go to counseling services at the agency instead?

A. Yes."

¶ 25

3. *Closing Arguments*

¶ 26

In her closing argument, respondent's attorney, Cherie Kesler, did not disagree with the recommendation to place custody and guardianship with DCFS. She disagreed, however, with the agency's recommendation to make visits supervised. Instead, she requested "third party visits," by which she apparently meant allowing respondent to visit with E.B. outside the supervised setting of the agency's office—in other words, not restricting visitation to one hour per week in the agency office, under the supervision of a caseworker. Kesler argued:

"My client would like to ask you to consider granting third party visits. The child's very young, and she's worried about the bonding that is necessary with a young child, and the amount of time that the current visits allow for that. And so we ask you to consider that, with all the information in front of you."

¶ 27

The trial court asked the assistant State's Attorney, Lawrence Solava, and the guardian *ad litem*, Carrie Kmoch, what they thought of this request. They both thought that visitation should be supervised.

¶ 28

4. *The Dispositional Order*

¶ 29

The trial court ordered that visitation be supervised, after finding E.B. to be

neglected, making her a ward of the court, and awarding custody and guardianship to DCFS.

¶ 30 This appeal followed.

¶ 31 II. ANALYSIS

¶ 32 Respondent argues that because Knight considered her to have "basic caretaking knowledge and instincts," because respondent took care of E.B. for 11 months without coming to the attention of DCFS, and because one of the purposes of the Juvenile Court Act of 1987 (Act) is to "preserve and strengthen the minor's family ties whenever possible," the trial court abused its discretion by requiring all visitation to be supervised. 705 ILCS 405/1-2 (West 2012).

¶ 33 This is a reasonable argument, but our standard of review is deferential. We should reverse the trial court's decision only if the decision is clearly illogical or arbitrary. *Long v. Mathew*, 336 Ill. App. 3d 595, 600 (2003). The decision is rationally defensible in the light of another legislative purpose in section 1-2. In addition to preserving and strengthening family ties, the Act intends to "secure for each minor subject hereto such care *** as will serve the safety and moral, emotional, mental, and physical welfare of the minor." 705 ILCS 405/1-2 (West 2012). Arguably, requiring visitation to be supervised serves that purpose. Respondent has a history of mental illness. She has a history of uncontrolled anger. Evidently, during a period of time when she was not taking psychotropic medication, she physically and verbally abused Z.B. After being denied a medical card, respondent again lacks medication or is on the verge of lacking it, judging by her testimony. There is some question of whether, unmedicated, she could treat E.B. the same way she treated Z.B. Maybe the answer is no, but on the record before us, that is not a possibility that can be dismissed. Therefore, we see the logic in requiring that visitation be supervised, at least for the time being.

¶ 34

III. CONCLUSION

¶ 35

For the foregoing reasons, we affirm the trial court's judgment.

¶ 36

Affirmed.